

Global Challenges in the Development & Regulation of Waqf

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Historical Development of Waqf

“ The word is used for **charities** and **gifts** that have **permanence and continuity**, so that people can **benefit** from them for years, **generations** or even centuries. ”



Visual: WAQF - WAQF share - Think Media

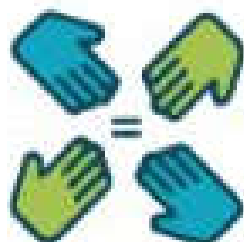
Islamic Social Funds:

Rooted in Philanthropy and Benevolence



Zakat:

Shariah-mandated annual contribution by rich that can be used for eligible categories of recipients.



Waqf:

Endowment of assets that may provide for a sustainable source of funds for community welfare in line with intentions of the endower



Sadaqa:

Free charity funds



Qard:

Cost-free loans

A Few Disturbing Numbers

- Over a billion people still live on less than one dollar a day, and almost 3 billion on less than two; in abject income poverty (WB)
- About 805 million people or one in nine, routinely go hungry (FAO); about 750 million people around the world lack access to safe water and almost 2.5 billion do not have access to adequate sanitation (WHO & UNICEF)
- Approximately 100 million people without any kind of shelter, whatsoever (UN)
- Need for “social finance” because capital is not yet aligned with social, economic, and political justice



Trends in Global Awqaf Sector

- As far as mobilization of waqf resources are concerned, data indicate a near-freeze in the creation of new social waqf, though religious awqaf continue to be created.
- Large numbers of waqf properties remain encroached upon, often by the state (e.g. Indian subcontinent, Balkans)
- Large tracts of waqf land remain un-developed providing below-normal returns
- There has been some rejuvenation of social waqf in the form of cash waqf in Malaysia, Indonesia, Singapore and Sudan.
- There have also been cases of redevelopment of waqf assets and their prudent investment for generating returns in these countries.
- Family awqaf remains the “neglected” component the sector (with some exceptions as in Sudan and Mauritius).

Recent Development of Waqf in Malaysia

2015

Bank Muamalat

- RM100mln to develop 4.5ha of waqf land, in collaboration with UDA Waqf Sdn Bhd
- Development was based on the Ijarah concept where the State Islamic Religious Council (SIRC) in various states will lease the property to the buyer at a certain rate and terms agreed upon during the lease period.
- The ownership of the property would remain with SIRC and only the rights to occupy will be assigned.

2016

Maybank Islamic Berhad

- RM10mln debut waqf fund in collaboration with Perak Islamic Religious Council, and Malay Customs Via the Waqf Perak Ar ridzuan.
- The Bank's participation was broken down to RM5 million each; with the first-half allocated for the construction of a student hostel for Universiti Sultan Azlan Shah and the remaining half in general cash.

Bank Islam Malaysia Berhad

- Financed its first waqf land development project involving 2 waqf lands worth of RM15.5mln:
- 1st project: comprised of 164 condominium unit and 12 shophouse unit in Shah Alam covering 1,000 sq ft with a leasehold price of about RM350,000
 - 2nd project: construction of 13 unit shop offices and 34 bazaar units in Klang.

Sources: Newswire

Regulatory development in waqf

Points to Ponder



It stands as one of the mechanisms for ensuring social security for any community.

Waqf has played a major role in the economies of many developing countries across the world.

Proper regulation for waqf development is an important aspects to unleash the potential of waqf.

Authorities should revisit at the following areas:

- True governance structure
- Regulation should be look at operation and management separately
- Investment planning strategies for awqaf development to cater the waqf assets
- Tax incentive for waqf

The Benefit of Waqf



Waqf can be a viable avenue towards building a successful business while incorporating Islamic values and benefitting society.

- economic growth
- higher employment
- wealth creation
- young entrepreneurial development

From **INCEIF perspective:**

- ✓ Islamic microfinance institutions (IMFIs) can utilise the waqf scheme in order to create more opportunities to give interest-free loans to the poor and needy of society.
- ✓ IFIs can replace current CSR programmes for a more sustainable solution. These can form part of their investment mandate so that waqf beneficiaries are allocated to receive a small percentage of the net profit realisations.
- ✓ Microtakaful and waqf could provide a financial solution for lower-income groups and small businesses.



15

of 23



Page Fit

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The Potential of Waqf

Very conservative estimates



India: Market value of the properties at about US\$ 24.0 billion. At a minimum return of 10 per cent per annum, resources generated are about 0.3 percent of the GDP against the resource required to meet the shortfall for lifting every Muslim poor above poverty line, estimated at 0.344 percent of its GDP

Indonesia: Market value of registered land waqf is about USD 60 billion. At a similar minimum rate of return of 10 per cent, these assets may generate an annual cash flow of US\$ 6 billion, which is 0.849 percent of Indonesia's GDP. This compares favorably against a resource shortfall of 0.35 percent of GDP for lifting every poor out of poverty (similar estimates by studies at WB and IDB).



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Some challenges

A lack of financial resources

- The State Islamic Religious Councils (SIRC) require funding for their investments from the government, statutory bodies, and the private sector.

Missing connection to the Islamic financial sector

- Waqf remains an area that is severely lacking in expertise. Many institutions are unaware of the ways in which they can utilise the scheme to generate revenues to be distributed to beneficiaries.

Undeveloped and unproductive waqf land

- Very few of the waqf lands generate income to the SIRC. One of the main reasons for the undeveloped waqf land is due to its locality, whereby a lot of waqf lands are located in rural areas, are scattered and lack potential to be developed.

Loopholes in the legal framework

- As the law on waqf is governed by different state laws, such a position may cause different interpretations and procedures in the promulgation of fatwa or legal rulings.

Unregistered waqf land

- The SIRC, as waqf administrators, face problems in the registration of waqf land titles, where the land sometimes cannot be identified and registered. Without the land title, it is hard for the SIRC to develop the waqf land.



No undue restriction on creation of new waqf, e.g. approval of the head of the state



Level playing field with common trusts and foundations; No additional financial and non-financial costs



Institutional waqf should be permitted and incentivised



No restriction on the definition of the endowed asset (e.g. immovable tangible assets); explicit recognition to movable, financial and intangible assets



Revival of the institution of family waqf

Good Practices in Mobilising Waqf Resources

Good Practices in Utilizing Waqf Resources

Preservation of waqf is undoubtedly the most important concern in waqf management. In case old laws fail to ensure protection, they must be replaced with new provisions that enable recovery of lost waqf assets.



While preservation is important, **law must clearly recognize the importance** of sustaining and enhancing the benefits flowing out of the waqf, this being the ultimate purpose of the act of waqf. This is possible only when the importance of development of waqf is clearly recognised.



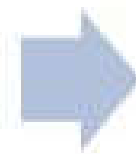
Waqf is originally and **always meant to be in the voluntary sector**. However, state has often played a dominant role, at times governed by motives to expropriate and at other times, by need to **curb corrupt practices** of private trustee-managers. There seems to some be positive evidence that the state can indeed play the role of an efficient manager of awqaf.

Good Practices in Utilizing Waqf Resources

Where waqf management is in private hands, the state agency as regulator should clearly stipulate elaborate and **clear eligibility criteria for a mutawalli or nazir or trustee-manager** not only covering aspects of integrity and trustworthiness but also professional competence.



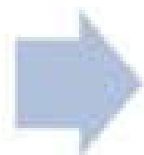
There is every reason for the state to take punitive action against mutawallis who fail the tests of efficiency, integrity, transparency. **Financial penalties tend to lose their effectiveness** as deterrents with time. Physical punishments are potentially more effective.



Waqf development must be a mandatory obligation of the waqf management. **Innovative methods may be employed that facilitate partnerships** (e.g. involving issue of sukuk) that involve transfer of rights to lease as distinct from ownership rights to private financing entities for finite, yet long enough period to **provide a fair return** on investment capital.

Good Practices in Utilizing Waqf Resources

The **conditions** given by the waqif with regard to the investment of the waqf and/or that the returns from investment are to be spent on specific areas, is **binding**.



The intended beneficiaries should always be **under sharp focus**; institutional effectiveness of waqf should be **measured** ultimately in terms of **flow of benefits** to intended beneficiaries and not in terms of gross returns on waqf investments alone.



It is rational to **seek risk minimization through diversification** or avoidance of high risk investment avenues. Risk minimization may however not be sought if the purpose of the waqf itself is to engage in specific risky ventures (e.g. provision of start-up equity to micro-entrepreneurs).

Where can INCEIF play a role?

- Refocus of academic programs to “producing talents who will be using Islamic Finance for the global halal economy”
- Action Based Learning
- Areas of study to include Islamic Social Finance, Responsible and Sustainable Finance in the context of Sustainable Development Goals (SDGs)
- Funding the initiatives - Innovative Waqf

Thank You.

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